IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8704 of 2005

Between:

M/s.DURA-FABS Engineers & Contractors, 6-3-1219/1/1/1, Umanagar, Begumpet, Hyderabad-500 016,
Umanagar, Begumpet, Hyderabad-500 016, rep., by its Proprietor, C.V.Ramana, s/o C.S.Murthy, aged 48 years,
business, r/at Hyderabad.

..... PETITIONER

AND

1 The Chief Engineer, Construction, APTRANSCO, Vidyut Soudha, Hyderabad.
2 TheSuperintending Engineer, TLC Circle, Mint Compound, Hyderabad.
3 The Executive Engineer, TLC Division, APTRANSCO, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order, direction or a writ, particularly one in the nature of a writ of mandamus declaring that the proceedings of the 1st respondent in Lr.No.CPT510/DURA-FAB/D.No.251/2005, dated 06-04-2005 is without jurisdiction, violative of fundamental principles of natural justice apart from infringing Articles 14 and 21 of the Constitution of India being arbitrary, illegal, and liable to be declared as unenforceable and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR.KOKA RAGHAVA RAO

Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court at the stage of admission made the following :

ORAL ORDER:

Aggrieved by the impugned proceedings issued by the first respondent dated 6-4-2005, wherein the petitioner was asked to pay an amount of Rs.14,50,369-45ps towards material account on the basis of report submitted by the Enquiry Committee to the Transco, for the contract work, as mentioned below.

Sl. No.	Description of material	Quantity	Unit cost of material in Rs.	Total cost in Rs.
1	Panther ACSR conductor	8.309 KM	61350.00	509757.15
2	M.S Tower parts	57.285 MT	15000.00	859275.00
3	Cement	10.13 MT	1630.00	16511.90
4	HTGS Earth wire	1.672 KM	17200.00	28758.40
5	70 KN Disc insulators	277 Nos	115.00	31855.00
6	Single Tension Hardware for conductor	39 sets	108.00	4212.00

TOTAL: Rs. 14,50,369.45 ps.

Challenging the said demand notice, the petitioner filed the present writ petition raising several contentions. The case of the petitioner is that during the period from 1990 to 1994, the petitioner executed the work of 132 KV DC line from Nizamabad to Kamareddy and the said work was completed by 29-04-1994. Thereafter in the year 2002 when the petitioner has submitted a tender in respect of the further work of 132 KV Tap Line to Shanigaram, the 1st respondent orally informed that in respect of the previous work, the material account reconciliation has not been completed and requested that if a suitable bank guarantee is furnished in view of the pending material account reconciliation, the fresh contract will be awarded to the petitioner and in pursuance of the same, the petitioner complied with the directions of the first respondent. In spite of which, the first respondent issued the impugned proceedings stating that though the petitioner agreed for reconciliation of material account for all items except major items, which was prepared by one K. Hanumantharao the then ADE of Nizamabad, and though the petitioner was requested to produce supporting documentary evidence to substantiate his claim, neither the petitioner nor the said K. Hanumantharao came forward in response thereto and hence the first respondent

issued the impugned demand notice informing the petitioner that he was due of the amounts mentioned above, basing on the enquiry committee, formed by the APTRANSCO.

But prima facie, I am satisfied that this case is related to a contract work entered into between the petitioner and the respondents with regard to the settlement of account of payments between the parties. Therefore, prima facie, I am satisfied that this Court cannot go into the matter in this writ petition by exercising power under Art. 226 of The Constitution of India.

However, during the course of arguments, learned counsel for the petitioner submitted that this demand notice was issued basing on the enquiry report and that the respondents have unilaterally taken the decision basing on the report submitted by the committee, demanding the petitioner to pay the above mentioned amount and the petitioner was also not given any opportunity to participate in the enquiry. Further, the petitioner was not aware of the constitution of the committee also. Therefore, the petitioner requested the respondents to furnish a copy of the said report to him, but they have not supplied it to him.

Having regard to the facts and circumstances of the case, I deem it appropriate to give a direction to the respondents to furnish a copy of the report, submitted by the Enquiry Committee, to the petitioner to enable him to go through it and to proceed in accordance with law, for redressal of his grievance.

With the above direction, the writ petition is disposed of at the stage of admission. No order as to costs.

---

kvsn 20-04-2005

To

1 The Chief Engineer, Construction, APTRANSCO, Vidyut Soudha, Hyderabad.

2 TheSuperintending Engineer, TLC Circle, Mint Compound, Hyderabad.

3 The Executive Engineer, TLC Division, APTRANSCO, Nizamabad.

4 Two CD copies.